IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

WP(C).No. 14640 of 2006(P)

PETITIONER: 1

S.K.LETHA, AGED 35 YEARS, SUMA BHAVAN,
CHATHENKARY P.O. THIRUVALLA.

BY ADV. SRI.D.AJITHKUMAR

RESPONDENTS:
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1. THE SECRETARY TO GOVERNMENT,
GENERAL EDUCATION (E) DEPARTMENT,
THIRUVANANTHAPURAM.

2. THE DIRECTOR OF PUBLIC INSTRUCTION,
D.P.I.JUNCTION, JAGATHY, THIRUVANANTHAPURAM.

3. THE DEPUTY DIRECTOR OF EDUCATION,
THIRUVALLA.

4. THE DISTRICT EDUCATION OFFICER,
THIRUVALLA.

5. THE MANAGER, S.N.D.P.HIGH SCHOOL,
CHATHENKARY P.O. THIRUVALLA.

BY ADV. DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR
SRI.M.R.JAYAPRASAD
SRI.K.K.RAJEEV
SRI.T.K.KAMALJITH
SMT.C.V.RAJALAKSHMI
GOVERNMENT PLEADER SMT.M.R.SREELATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1	**TRUE COPY OF THE ORDER DATED 13-07-05 OF R4**
EXT.P2	**TRUE COPY OF ATTENDANCE REGISTER.**
EXT.P3	**TRUE COPY OF SHOW CAUSE NOTICE SENT BY R5 TO MRS. RAVI SANKAR**
EXT.P4	**TRUE COPY OF REPRESENTATION SUBMITTED BEFORE R4**
EXT.P5	**TRUE COPY OF REPRESENTATION FILED BY PETITIONER BEFORE F1**
EXT.P6	**TRUE COPY OF JUDGMENT IN W.P.C.NO.26167/05**
EXT.P7	**TRUE COPY OF ORDER NO.B3-16867/05 OF R3**
EXT.P8	**TRUE COPY OF COMMUNICATION SENT BY F1 TO THE PETITIONER.**
EXT.P9(A)	**TRUE COPY OF MARK SHEETS SHOWING MARKS AWARDED AS PER CONTINUOUS EVALUATION TO THE 26 STUDENTS STUDYING SANSKRIT IN VIII**
EXT.P9(B)	**TRUE COPY OF MARK SHEETS SHOWING MARKS AWARDED AS PER CONTINUOUS EVALUATION TO THE 26 STUDENTS STUDYING SANSKRIT IN IX**
EXT.P9(C)	**TRUE COPY OF MARK SHEETS SHOWING MARKS AWARDED AS PER CONTINUOUS EVALUATION TO THE 26 STUDENTS STUDYING SANSKRIT IN X.**
EXT.P10	**TRUE COPY OF COUNTER AFFIDAVIT FILED BY THE FIFTH RESPONDENT IN W.P.C.NO.34960/05**
EXT.P11	**TRUE COPY OF ORDER DATED 27-2-06 IN W.P.C.NO.34960/05**
EXT.P12	**TRUE COPY OF AFFIDAVIT FILED BY R4 IN W.P.C.NO.34960/05**
EXT.P13	**TRUE COPY OF JUDGMENT IN W.P.C.NO.34960/05**
EXT.P14	**TRUE COPY OF ORDER OF THE FOURTH RESPONDENT.**

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

W.P.(C).No.14640 OF 2006

Dated this the 30th day of January, 2007

JUDGMENT

Case of the petitioner in brief is as follows:

Petitioner was appointed as H.S.A. (Sanskrit) as Full Time Permanent Teacher. On 29-06-2005, the verifying officer visited the school and found that the total strength of students in three classes namely VIII, IX and X is 20. As per the verification report, fourth respondent passed the staff fixation order and the post of H.S.A. (Sanskrit) was abolished and the petitioner was retrenched. Petitioner filed a representation before the fourth respondent. But the fourth respondent rejected the representation stating that no verification is possible except with Government sanction. Petitioner filed Ext.P5 representation before the first respondent. By Ext.P6 judgment this court directed the representation to be filed to be considered. This was rejected by the Deputy Director

by Ext.P7. That is challenged before this court and this court admitted the writ petition and passed interim order allowing the petitioner to continue in the post of H.S.A. (Sanskrit). On the basis of the order passed by this court, the D.E.O. conducted an enquiry and filed Ext.P12 affidavit wherein it is stated that there are 26 students studying Sanskrit in Standard VIII, IX and X. By Ext.P13 judgment this court directed the D.E.O. to consider and pass fresh orders of staff fixation confining himself only to the question regarding the retention of the post of H.S.A. (Sanskrit) in the school. It is ordered that if it is found that the number of students studying Sanskrit in the school warrants retention of the post of H.S.A. (Sanskrit), appropriate orders shall be passed by respondent No.4. Ext.P14 is the consequential order, wherein, D.E.O. ordered that though the roll strength is 26 pupils in High School section, effective strength of pupils learning Sanskrit in High school section was only 20, which is below the minimum strength prescribed in Rule 6 (E) .

2. Petitioner challenges Exts.P7, P8 and P14. The prayer in the writ petition is for a direction to the respondents to retain the post of H.S.A. (Sanskrit) with effect from 13-07-2005 and to reinstate the petitioner in service with effect from 13-07-2005. Further a direction is also sought to disburse all consequential service benefits.

3. Learned counsel for the petitioner points out that it is only on account of the stand taken by the management that the entire situation arose.

4. In the facts and circumstances, I feel that the petitioner should be relegated to pursue the remedy under Rule 12(E) (iii) by filing appropriate petition before the DPI. Accordingly, the writ petition is disposed of as follows:

If the petitioner files a petition against Ext.P14 under Rule 12 (E)(iii) before the second respondent within two weeks from today, second respondent shall take a decision on the same in accordance with law after hearing the petitioner, the manager and any other

affected party within a period of two months from the date of filing of the petition. Interim order passed by this court will continue till a decision is taken by the DPI. I am leaving open the contentions of the petitoiner.

K.M.JOSEPH
JUDGE

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